relevance before deciding that the defendant should pay them in any event.

Final judgment on this case will be delivered only after the plaintiff has had an opportunity of filing a reply to the counterclaim, to recall witnesses and to call fresh evidence, if she so wishes.

Order accordingly.

CHAN YOKE MAY v. LIAN SENG CO. LTD. & ANOR.

[O.C.J. (Suffian J.) April 6, 1962]

[K.L. — Civil Suit No. 160 of 1961]

Damages — Principles to be taken into account — Assessment of — Fatal accident — Civil Law Ordinance, 1956, s.7 — General damages.

In the assessment of general damages under section 7 of the Civil Law Ordinance, 1956 it is necessary, in view of the principles enunciated in *Nance* v. *British Columbia Electric Rly. Co. Ltd.*, (1) to estimate (a) the deceased's expectation of life if he had not been killed when he was; (b) what sums during these years he would probably have applied to the support of his wife and children, bearing in mind the allowances to be made for the acceleration of the accrual of interest, the possibility that some of the beneficiaries might have predeceased the deceased had he lived and that the deceased's wife might remarry. Further there should be added to the above what the deceased would have saved during the estimated expectation of life and what of these additional savings his family would have been likely to inherit.

Case referred to:—

(1) *Nance* v. *British Columbia Electric Railway Co. Ltd.* [1951] A.C. 601, 615.

The following cases were also cited during argument: *Nam Thiam Siew* v. *Chuang Wai Lan* [1959] M.L.J. 126, C.A.; and *Seenivasan & Anor.* v. *Lim Yew Seng* [1961] M.L.J. 22, C.A.

CIVIL APPEAL.

S. D. K. Peddie for the plaintiff.

N. A. Marjoribanks for the defendants.

Cur. Adv. Vult.

Suffian J.: In this case the issue of negligence was not seriously contested in court and I have little difficulty in finding that the second defendant's negligence was the cause of the collision in which the deceased suffered injuries and eventually died. It was a rainy day, the surface on which the car was travelling was wooden on which it is only safe to travel at about 10 miles an hour, and yet in this rain the driver did about 30 miles an hour.

As it is admitted that the first defendant was the owner of the car and the second defendant was then driving as his servant or agent, I hold both defendants liable.

As to quantum, special damages to cover funeral expenses were agreed in court at $840.

As regards general damages under section 7 of the Civil Law Ordinance, 1956, it is necessary first to estimate what was the deceased's expectation of life if he had not been killed when he was. He was a healthy man of 43 and considering the possibility of a premature determination of his life by a later accident I estimate his expectation of life at 15 years. It is next necessary to estimate what sums during these years he would probably have applied to the support of his wife and the two children. The wife said that he used to give her $450 every month out of which she gave him his evening meal. Mr. Marjoribanks submitted that as the deceased drew only $574 p.m., probably he paid her only $300 p.m. Taking into account the fact that deceased, had he survived, could have worked another 17 years with government, his prospects in government were good, his liberality with his family might have grown or wilted, I estimate that during the next 15 years, had he not died, he would probably have applied $350 p.m. to the support of his wife and the two children. The present value of this is $43,596. But a deduction must be made for the benefit accruing to the widow and children from the acceleration of their interest in his estate on his death intestate in 1959 (he left, disregarding money under an insurance policy, approximately $28,000 and each of them came into this 15 years sooner than they would otherwise have done); and a further allowance must be made for a possibility which might have been realised if he had not been killed but had embarked on his allotted span of 15 years, namely, the possibility that the wife and children might have died before he did. And there is a further possibility to be allowed for, namely, the possibility that, the widow, who is quite attractive, might remarry in circumstances which would improve her financial position.

These principles are laid down by their Lordships of the Privy Council in *Nance* v. *British Columbia Electric Railway Company Ltd.* (1).

Regard should also be had, as submitted by Mr. Marjoribanks, to the fact that part of the property left by the deceased consisted of a one-half share in rubber lands totalling about 80 acres, of which 30 acres were replanted some six years ago and would be ready for tapping in one or two years. This property will thereafter provide the widow and children a reasonable income for 20 to 25 years.

Continuing the application of the principles above set out by their Lordships of the Privy Council, a figure having been arrived at under the above head, there should be added to it, as submitted by Mr. Peddie, an amount equal to what the deceased would probably have saved during the next 15 years if he had so long endured, and what part, if any, of these additional savings his family would have been likely to inherit. The evidence was that he bought his half share in the rubber lands in 1944, when he died he had $4.41 in the Post Office Savings Bank and his estate received $306.72 by way of benefits from a co-operative society and the Post Office Workers Benevolent Fund. Apart from the war years when he bought the lands when rubber was unsaleable and rubber lands were cheap, and the existence of a life insurance policy, the evidence shows that the deceased would have

saved only a modest sum of money during the next 15 years had he survived. Whatever sum he would have saved over the 15 years must again be reduced to its lump sum equivalent here and now, and further discounted to allow for the contingency that his wife and children might have died before him; though these reducing factors would have been offset by any interest carried by the savings annually set aside.

Taking all these considerations into account, and basing on them the best estimate I can form, I am satisfied that a reasonable sum to be recoverable by the widow and two children is $35,000.

This is both a claim under section 8 of the Civil Law Ordinance for pain and suffering and loss of the expectation of life, for the benefit of the estate, and under section 7 for the benefit of the three dependants. The appropriate damages under section 8 are in my view $3,500, but this figure is merged in the higher award made under section 7.

In my judgment therefore the defendants should pay the plaintiff:—

(a) special damages $840;
(b) general damages $35,000; and
(c) costs.

As regards the general damages, they are apportioned as follows:—

(i)	the widow	$23,000;
(ii)	the son	4,000;
(iii)	the daughter	8,000.

The widow's share is to be paid to her solicitor, while the children's shares should be paid into the Post Office Savings Bank in the name of the Senior Assistant Registrar and to be paid out for their education and maintenance at his discretion, any balance remaining to be paid to each of them when he or she attains the age of 21.

Order accordingly.

Solicitors: *Bannon & Bailey; Lovelace & Hastings.*

Re HUSSEIN BIN ONN

[O.C.J. (Thomson C.J.) April 10, 1962]

[K.L. — Petition for Admission No. 29 of 1961]

Advocate and Solicitor — Period of instruction in local office commenced before call to English Bar — Whether such period of instruction valid for purpose of s.5(3), Advocates and Solicitors Ordinance, 1947.

The question raised by this petition was whether a period of instruction in law in the local office of a practising advocate and solicitor of not less than seven years' standing which occurred previous to the date of the petitioner's call to the English Bar, could be reckoned in computing the period of instruction required to be undertaken by reason of the provisions of section 5(3) of the Advocates and Solicitors Ordinance, 1947.

Held: on a true interpretation of the Ordinance, only a period of instruction following call to the English Bar could be properly regarded as instruction for the purpose of section 5(3) of the Ordinance and any period of instruction prior to the date of call to the English Bar must therefore be disregarded.

PETITION FOR ADMISSION.

The following facts are taken from the judgment: The petitioner obtained a conditional pass in his Final Examination for call to the Bar in September 1960. He returned to Malaya, which is his home, and on November 16, 1960, commenced to attend and receive instruction in law in the local office of a practising advocate and solicitor of not less than seven years' standing. In May, 1961, he passed his Final Examination and on June 27, 1961, he was called to the English Bar by the Honourable Society of Lincoln's Inn.

On August 3, 1961, he presented his petition for admission and posted the necessary notices. On September 9, 1961, he passed his local examination under section 7(1) of the Advocates and Solicitors Ordinance, 1947, and on March 2, 1962 his petition came on for hearing before the learned Chief Justice. The hearing was adjourned until March 16 when the learned Chief Justice heard counsel and reserved judgment.

R. R. Chelliah for the petitioner.

Raja Abdul Aziz (Federal Counsel) for the Attorney-General.

Zain Azhari for the Bar Council, Federation of Malaya.

Robert K. C. Hoh for the local Bar Committee.

Cur. Adv. Vult.

Thomson C.J.: This is a petition under the provisions of the Advocates and Solicitors Ordinance, 1947, to be admitted and enrolled as an advocate and solicitor.

[His Lordship stated the facts as summarised above and continued:]

The petition is opposed by the Bar Council and the Selangor Bar Committee on the ground that the petitioner has not read in chambers locally for a sufficient time.

It is common ground that he has in fact read in chambers for over 12 months, that is to say since 16th November, 1960. It is his contention that the whole of that period should be taken into account for purposes of the Ordinance. For the Bar Council and the Bar Committee it is said that so much of that period as was prior to his call to the English Bar must be disregarded and that therefore he will not have completed the prescribed period of twelve months until 26th June, 1962.

The Advocates and Solicitors Ordinance provides for two ways in which persons can be admitted to practise as advocates and solicitors.

The first of these, which is set out in sections 9 to 23 of the Ordinance, provides for persons entering into articles of clerkship and sitting examinations and in due course after three or five years being admitted. This is very similar to the way in which solicitors in England become qualified to practise and one would have expected that here it should be the normal method of entry to the profession. Curiously, however, the pro-